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In This Issue:

- Spotlight: Landscape Development Inc.
- Families First Coronavirus Response Act
- Paycheck Protection Program Update
- New Legal Form Targets Delays and Costs of Covid

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San Luis Obispo Chapter
California Landscape Contractors Association
Representing the Landscaping & Irrigation Industry

Become Familiar with Personal Liability and What it Means for You

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A business owner from California asked a question regarding the degree of personal liability he and his managers may be confronted with when dealing with various human resources topics.

The dominant issue in his inquiry was that if an employee is targeted for personal liability, that employee's company is not necessarily obligated to defend the individual employee in court. That means, the employee must secure his/her own individual legal defense, and risk damages that impact his/her personal assets, wealth, and earnings.

At the state level, the owner's fears were justified. Per state law, an owner, director, officer, or managing agent (e.g., HR) of the employer; employees may now bring actions against the managing person or owner directly as an individual, as well as against the employing entity itself. Such action may be triggered by allegations related to sexual harassment, various wage and hour violations, as well as abusive conduct.

Beyond California, several other states including New Jersey, New York, Massachusetts, Connecticut, Ohio, Oregon, Pennsylvania, and Washington allow plaintiffs to bring claims against individuals under the theory that they "aided and abetted" discrimination or harassment.

At the federal level, there are currently 10 employment laws that permit individual civil liability:

- Consolidated Omnibus Budget Reconciliation Act (COBRA),
- Employee Retirement Income Security Act (ERISA),
- Fair Labor Standards Act (FLSA),
- Family and Medical Leave Act (FMLA),
- Foreign Corrupt Practices Act (FCPA),
- Immigration Reform and Control Act (IRCA)
- Occupational Safety and Health Act (OSHA),
- Section 1981 of the Civil Rights Act of 1866,
- Section 1983 of the Civil Rights Act of 1871, and
- Uniformed Services Employment and Reemployment Rights Act (USERRA)

(continued on page 4)

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Landscape Development, Inc.

Landscape Development, Inc. (LDI) is an industry-leading, integrated site and landscape services company serving all of California with over 40 years experience. The company has a branch office in San Luis Obispo. From site design through construction, protection and maintenance, the company provides personal, capable solutions for site needs.

Members of the Landscape Development team are exceptionally enthusiastic Green Industry professionals who have dedicated their careers to working on your behalf. The company has licensed architects, skilled craftsmen, erosion control technicians, and exacting managers. From design to management to emergency site response, Landscape

Development is available, 24/7, 365 days a year.

LDI efficiently constructs expansive parks and slopes, bustling commercial sites and resorts, alluring model sites, and efficient production homes. The LDI staff makes "anything landscape" possible. Every team member possesses the specific skills required to ensure success.

The Enhanced Landscape Management Division changes maintenance results dramatically. They enhance the site, making it grow to become more valuable, beautiful, and livable.

High density properties pose special challenges to site appearance and longevity. Specially trained crews inspect all aspects of common spaces, proactively managing to the highest standards.

From mitigating shore erosion

with engineered wave barrier systems, to slope protection and on-site SWPPP implementation, LDI retains soil and controls dust. The firm mitigates disturbance by water, fire, and development, restores habitat, and provides SWPPP plans, inspections, and emergency response.

California is home to incredible waterfront vistas and to threats from tidal erosion and drought. LDI's Earth Services Division diligently protects and restores shoreline erosion and natural damage.

Over the decades, LDI has design-built mid-rise apartments, master planned developments, models, parks, production homes, and resorts.

Some sites are spacious while others can be challengingly tight. LDI's ingenious design and skilled construction proves even small lots can be magically transformed into magnificent getaways.

The Custom Gardens team consists of landscape architects, contractors, and dedicated craftsmen and subcontractors skilled in all aspects of design and construction.



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Families First Coronavirus Response Act

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1 to December 31, 2020.

Paid Leave Entitlements

Generally, employers covered under the Act must provide employees: Up to two weeks (80 hours, or part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage. A part-time employee is eligible for leave for the number

of hours that the employee is normally scheduled to work over the period.

Eligible Employees

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons. Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave.

For more information visit <https://bit.ly/2MFTqh5>.

(continued from page 1: Liability)
The following five allow individual criminal liability: ERISA, FLSA, FCPA, IRCA, and OSHA.

- To protect oneself against personal liability, individuals should:
- Verify they are protected against personal liability claims to the degree to which they are explicitly covered as part of their employer's Employment Practices Liability Insurance (EPLI) policy,
 - Develop an Asset Protection Trust (i.e., Living Trust) that shields "trust" assets from personal liability,
 - Become professionally fluent with the employment laws that impact personal liability, and
 - Verify legal compliance with all procedures associated with the aforementioned topics at all times.

~KURAPIA~

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CLCA Member Benefit

New Legal Form Targets Delays and Costs Associated with COVID

Delays and additional costs are headaches contractors and clients face when returning to work. CLCA has created an addendum to its residential home improvement contract that addresses these and other pandemic-related issues. You can download the document at <https://bit.ly/2Ma6vic>.

Available as a one-page fill-in-the-blank PDF, the addendum was created by the Law Offices of William Porter, the voice behind CLCA's popular Attorney on Call member benefit program.

What Does The Addendum Address?

- Additional costs, such as increased travel expenses because employees can't carpool to job sites
- Project delays due to scarcity of materials or labor
- Project termination, including who pays for what

The addendum allows you to plan for these contingencies and more.

The legal form should be used in conjunction with CLCA's Residential Home Improvement Contract.

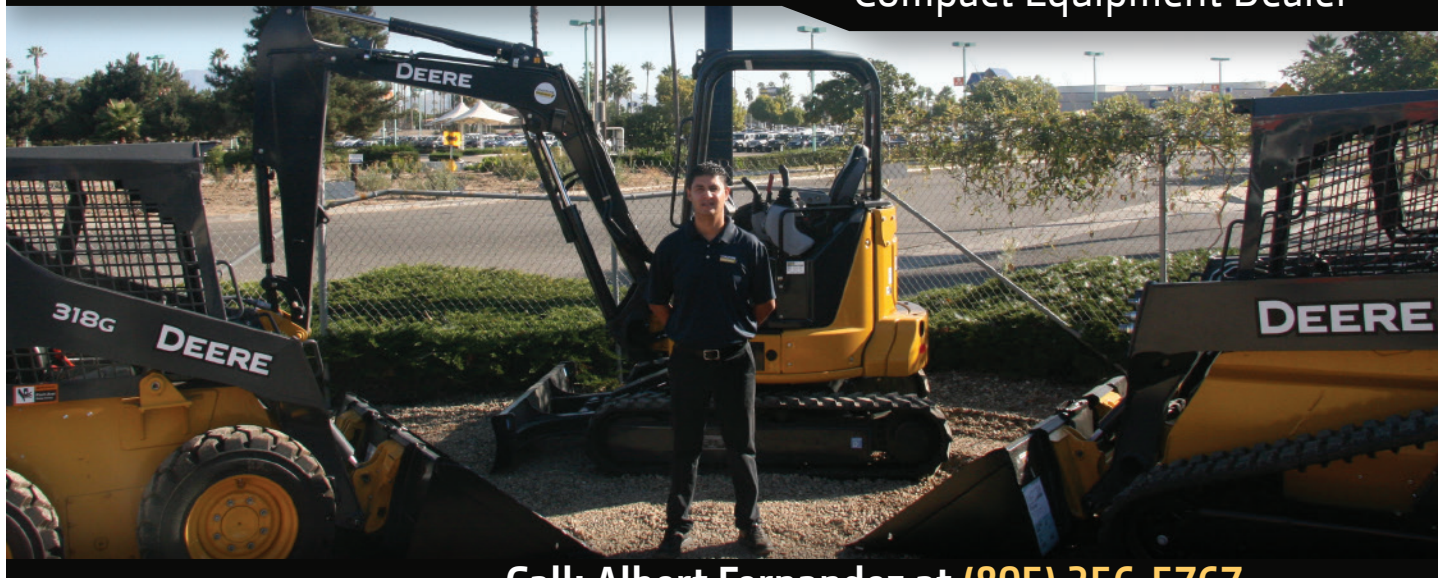
Paycheck Protection Program Update

The U.S. Small Business Administration has provided updates on Economic Injury Disaster Loans and the Paycheck Protection Program. The SBA notes that "The Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll. SBA will forgive loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest or utilities. You should consult with your local lender as to whether it is participating in the program."

For more information, visit <https://bit.ly/2M7PvsZ>.

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